

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**  
Roanoke Division

ALESSANDRO CANCIAN,

Plaintiff,

V.

HANNABASS AND ROWE, INC., and  
LINDSAY MICHELLE STINSON,

Defendants.

• • • • •

Civil Action No.: 7:18-cv-283

## COMPLAINT AND JURY DEMAND

FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, ALESSANDRO CANCIAN (“Cancian” or “Plaintiff”), brings this complaint in the United States District Court for the Western District of Virginia against HANNABASS AND ROWE, INC (“Hannabass”), and LINDSAY MICHELLE STINSON (“Stinson”) (Together “Defendants”), alleging as follows:

PARTIES

1. Plaintiff is an experienced, commercial wildlife and travel photographer. Plaintiff's photographs have been published by a wide variety of editorial and trade magazines during his nearly ten-year career. Plaintiff resides in Ontario, Canada.
2. On information and belief, Hannabass is a Corporation existing under the laws of the Commonwealth of Virginia, with headquarters in Roanoke, Virginia. Hannabass specializes in a collision repair and glass replacement for automobiles. Hannabass is the owner of the commercial website, [www.hannabassandrowe.com](http://www.hannabassandrowe.com).

3. On information and belief, Stinson is an individual residing in Salem, Virginia.

#### JURISDICTION AND VENUE

4. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
5. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
6. Defendants are subject to personal jurisdiction in Virginia.
7. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in this district.
8. This Court also has personal jurisdiction over Defendants, and venue in this District is proper under 28 U.S.C. § 1400(a).

#### FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

9. Plaintiff captured the photograph, “Speeding Fall” (“Copyrighted Photograph”) on July 16, 2011 in Muskoka, Ontario, Canada. [Exhibit 1].
10. On or about March 17, 2012, Plaintiff posted Copyrighted Photograph to [www.500px.com/photo/5858062/speeding-fall-by-alessandro-cancian?ctx\\_page=3&from=user&user\\_id=353150](http://www.500px.com/photo/5858062/speeding-fall-by-alessandro-cancian?ctx_page=3&from=user&user_id=353150) (Last visited June 1, 2018). [Exhibit 2].
11. Beginning on or about November 23, 2015, Defendants copied and posted Copyrighted Photograph to Hannabass’s commercial website, [www.hannabassandrowe.com](http://www.hannabassandrowe.com) (Last visited June 1, 2018).

12. On information and belief, at the time of infringement detailed in Paragraph 11 of this Amended Complaint, Stinson was the sole owner of Stinson Communications, LLC, a Virginia Limited Liability Company.
13. Stinson Communications, LLC was formed by Stinson on October 24, 2014 and dissolved for non-payment of fees on January 31, 2017.
14. Defendants posted Copyrighted Photograph to the following URLs:
  - [www.hannabassandrowe.com/fall-driving-tips](http://www.hannabassandrowe.com/fall-driving-tips)
  - [www.hannabassandrowe.com/tag/fall-driving](http://www.hannabassandrowe.com/tag/fall-driving)
  - [www.hannabassandrowe.com/tag/safety-tips](http://www.hannabassandrowe.com/tag/safety-tips)
  - [www.hannabassandrowe.com/category/hannabass-and-rowe](http://www.hannabassandrowe.com/category/hannabass-and-rowe)(Last visited June 1, 2018). [Exhibit 3].
15. Plaintiff registered Copyrighted Photograph with the United States Copyright Office on May 5, 2017 (Registration No.: VA 2-062-573). [Exhibit 4].

COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. § 101 ET SEQ.

16. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.
17. Plaintiff is, and at all relevant times has been, the copyright owner or licensee of exclusive rights under United States copyright with respect to Copyrighted Photograph, which is the subject of a valid Certificate of Copyright Registration by the Register of Copyrights.
18. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce and distribute Copyrighted Photograph to the public.
19. Plaintiff is informed and believes Defendants, without the permission or consent of Plaintiff, copied and used Copyrighted Photograph on Hannabass's commercial website,

[www.hannabassandrowe.com](http://www.hannabassandrowe.com). In doing so, Defendants violated Plaintiff's exclusive rights of reproduction and distribution. Defendants' actions constitute infringement of Plaintiff's copyright and exclusive rights under copyright.

20. Upon information and belief, Stinson was the dominant influences in Stinson Communications, LLC, and determined and/or directed the policies that led to the infringements complained of herein. Accordingly, Stinson is jointly and severally liable for any direct copyright infringement committed by Stinson Communications, LLC. *See Broad. Music, Inc. v. It's Amore Corp.*, No. 3:08CV570, 2009 WL 1886038 (M.D. Pa. June 30, 2009), citing *Sailor Music v. Mai Kai of Concord, Inc.*, 640 F. Supp. 629, 634 (D.N.H.1984). Upon further information and belief, Stinson possessed the right and ability to supervise the infringing activities of Stinson Communications, LLC, and possessed an obvious and direct financial interest in the exploited copyrighted materials by virtue of her sole ownership in the company. Accordingly, Stinson is vicariously liable for any copyright infringement committed by Stinson Communications, LLC. *See, e.g., Nelson-Salabes, Inc. v. Morningside Dev., LLC*, 284 F.3d 505, 513 (4<sup>th</sup> Cir. 2002).
21. Plaintiff is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Plaintiff.
22. As a result of Defendants' infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to actual damages, including any profits realized by Defendants attributable to the infringement, pursuant to 17 U.S.C. § 504(b) for Defendants' infringement of Copyrighted Photograph.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. Declaring that Defendants' unauthorized conduct violates Plaintiff's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Defendants, their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing Plaintiff's Copyrighted Photograph without consent or otherwise infringing Plaintiff's copyright or other rights in any manner;
- C. Ordering Defendants to account to Plaintiff for all gains, profits, and advantages derived by Defendants by their infringement of Plaintiff's copyright or such damages as are proper;
- D. Awarding Plaintiff actual damages for Defendants' copyright infringement in an amount to be determined at trial;
- E. Awarding Plaintiff his costs, reasonable attorney's fees, and disbursements in this action, pursuant to 17 U.S.C. § 505; and
- F. Awarding Plaintiff such other and further relief as is just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims for which there is a right to jury trial.

Dated: October 2, 2018

/s/ David C. Deal  
David C. Deal (VA Bar No.: 86005)  
The Law Office of David C. Deal, P.L.C.  
P.O. Box 1042  
Crozet, VA 22932  
434-233-2727, Telephone  
888-965-8083, Facsimile  
[david@daviddeal.com](mailto:david@daviddeal.com)  
*Counsel for Plaintiff*

EXHIBIT 1





EXHIBIT 2

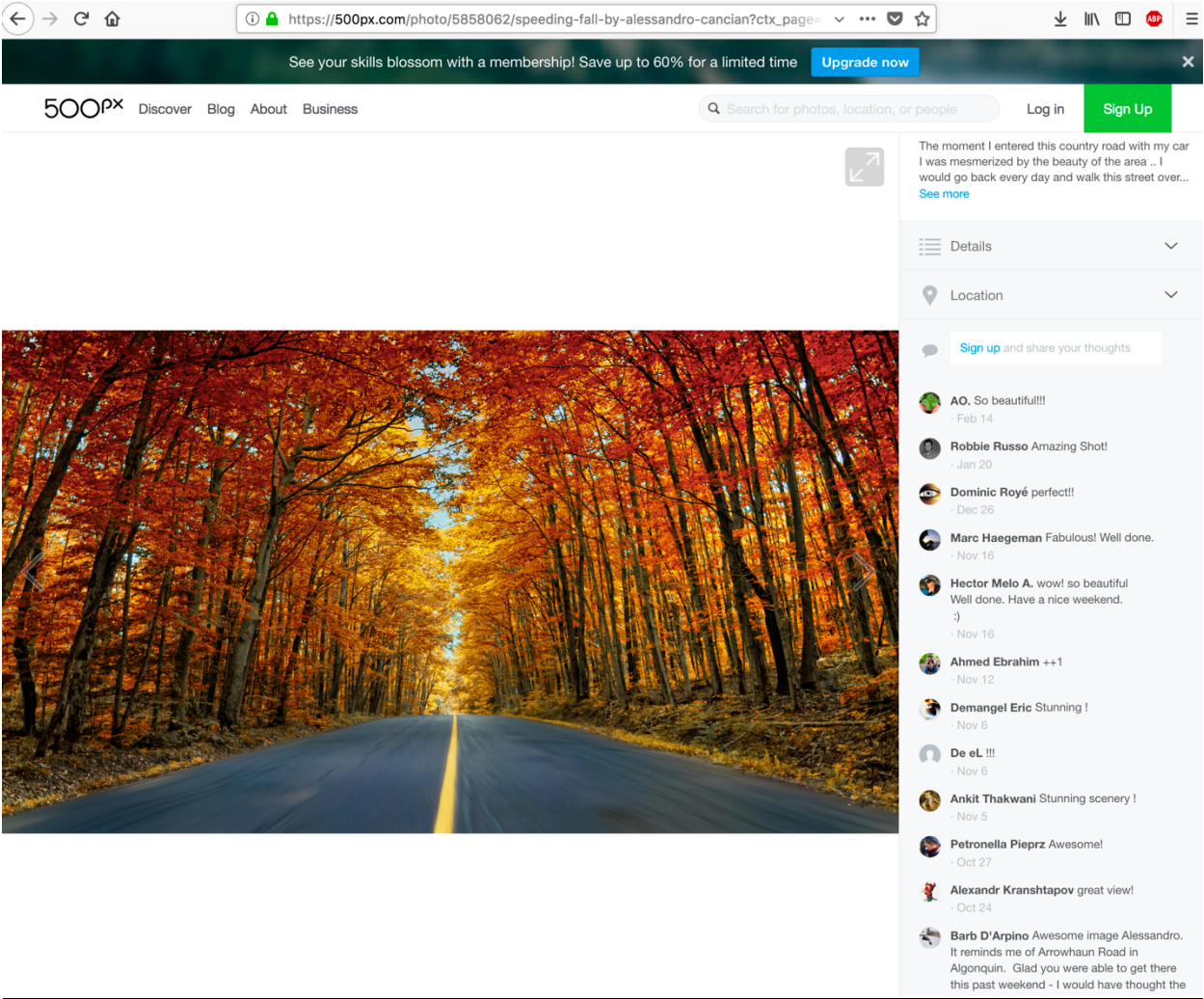




EXHIBIT 3



Hannabass and Rowe Collision Center Rowe

Home About Us Contact Us Driving Safety Tips

# Fall Driving Tips

Posted on **November 23, 2015** by **admin**



## Fall Driving Tips

Falling leaves and dropping temperatures... Autumn is in full swing! While fall may be beautiful, it can mean hazardous driving conditions on the road. Weather conditions are unpredictable during this time of year which is why you need to watch your speed, keep your distance, stick to low beams and approach traffic lights carefully. As the season moves from autumn to winter, follow these fall driving tips to help keep you safe.

**Rain:** Driving in rain means dangerous conditions, especially in the fall. Rain can loosen grease, creating a slippery surface for wheels. In addition, rain can be particularly dangerous when water pools on top of pavement. Drive slow as roads can be extremely slippery when wet.

**Leaves:** When it rains, leaves on pavement can be just as dangerous as ice. Wet leaves reduce car traction, cause skidding and prevent control. Be wary when driving around corners and coming to a stop.

**Fog:** As cool air passes over warm water or moist land, fog is formed between the ground and the air. Fall weather leads to fog and decreasing visibility. When you drive into fog, remember to use low beams so there is limited glare.

**Frost:** As temperatures drop, frost is likely to coat the ground during the night and early morning. Be aware of icy roads and drive

Fall Driving Archives - Hann...

www.hannabassandrowe.com/tag/fall-driving/

Search

☆

📁

⬇

🏠

📧

☰

**Hannabass & ROWE**  
COLLISION CENTER


HomeAbout UsContact UsDriving Safety Tips

Tag: Fall Driving

### Fall Driving Tips

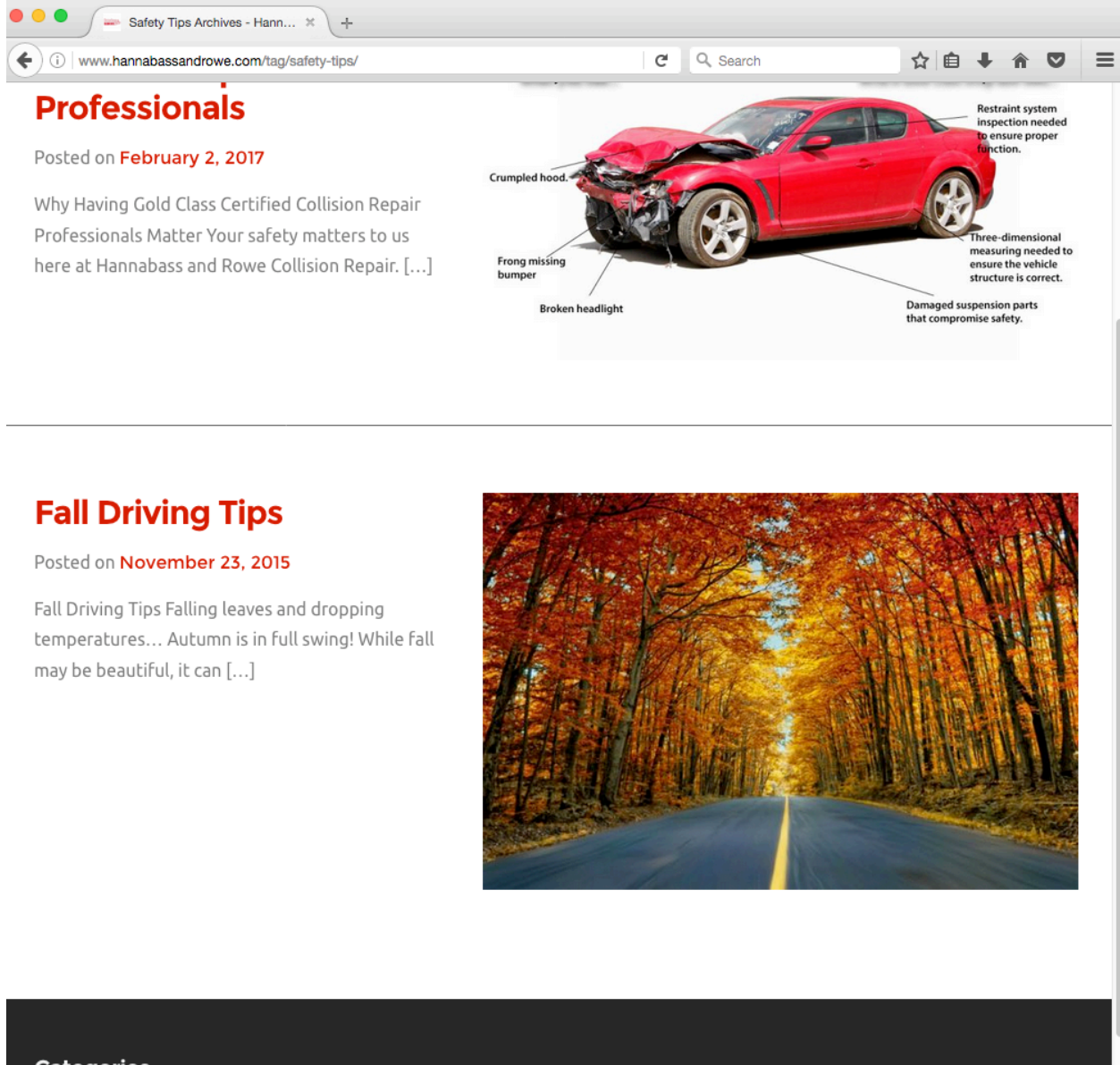
Posted on **November 23, 2015**

Fall Driving Tips Falling leaves and dropping temperatures... Autumn is in full swing! While fall may be beautiful, it can [...]



#### Categories

Automobile AccidentCollision RepairDriving TipsHannabass and RoweInsurance Companies Parts and ServiceUncategorizedVehicle Safety



Hannabass and Rowe Archi...

www.hannabassandrowe.com/category/hannabass-and-rowe/

Search

☆

📄

↓

🏠

👍

☰

## Prepared for Fall Driving


Posted on **November 7, 2016**

Is Your Vehicle Prepared for Fall Driving? Be #PreparedForFallDriving with Hannabass and Rowe Collision Centers! Hannabass and Rowe Collision Centers [...]


## Fall Driving Tips

Posted on **November 23, 2015**

Fall Driving Tips Falling leaves and dropping temperatures... Autumn is in full swing! While fall may be beautiful, it can [...]



## Hannabass and Rowe – Who We Are




Plaintiff's Original Complaint

Page 12 of 13



EXHIBIT 4

**Certificate of Registration**

 This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Karen Leigh Clayette*  
Acting United States Register of Copyrights and Director

**Registration Number**  
**VA 2-062-573**  
**Effective Date of Registration:**  
May 05, 2017

**Title** \_\_\_\_\_  
Title of Work: Speeding Fall

**Completion/Publication** \_\_\_\_\_  
Year of Completion: 2011  
Date of 1st Publication: March 17, 2012  
Nation of 1<sup>st</sup> Publication: Canada

**Author** \_\_\_\_\_  
• Author: Alessandro Cancian  
Author Created: photograph  
Domiciled in: Canada

**Copyright Claimant** \_\_\_\_\_  
Copyright Claimant: Alessandro Cancian  
133 Northcliffe Blvd, Toronto, M6E 3K5, Canada

**Rights and Permissions** \_\_\_\_\_

**Certification** \_\_\_\_\_  
Name: Clare Collins  
Date: May 05, 2017

Page 1 of 1